

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

DECISION AND ORDER  
99-CR-197A

TEJBIR OBEROI,

Defendant.

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Currently before the Court is the motion of defendant Tejbir Oberoi for release pending appeal. The government opposes the motion.

After reviewing the submissions of the parties, the Court denies defendant's motion for release pending appeal.

Defendant's motion for release pending appeal is governed by 18 U.S.C. § 3143(b)(1), which provides in pertinent part:

[T]he judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds--

- (A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title; and
- (B) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in –
  - (I) reversal,
  - (ii) an order for a new trial,

- (iii) a sentence that does not include a term of imprisonment, or
- (iv) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.

For the reasons cited in the Court's Order filed March 5, 2004, denying his request for bail pending sentencing, the Court finds that the defendant is unlikely to abide by any condition or combination of conditions of release which would assure that he does not pose a danger to the community. Further, defendant has failed to raise a "substantial question of law" that will likely result in reversal, a new trial or a shorter sentence. Accordingly, his motion for release is denied.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: January 30 , 2006